

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Battistini et al. Confirmation No.: 1799

Serial No. : 10/812,308

Filed : March 30, 2004

Art Unit : 1611

Examiner : Rae, C. E.

For : **USE (3-(2-ETHYLPHENYL)-5-METHOXYPHENYL)-1H-[1,2,4]-  
TRIAZOLE FOR THE TREATMENT OF AUTOIMMUNE  
DISEASES**

**37 C.F.R. § 41.37(c)(1)(vi) RESPONSE TO NOTIFICATION OF NON-  
COMPLIANT APPEAL BRIEF**

Sir:

This is submitted in response to a Notification of Non-Compliant Appeal Brief mailed June 9, 2009. Enclosed herewith is the GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL, Section VI, properly identifying the claims, statutes and references according to the rejection stated in the Examiner's Final Rejection.

The Response is being filed within the one month period for response. Thus, no further fees are believed to be required. Pursuant to 37 C.F.R. §1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 02-2275.

Any deficiency or overpayment should be charged or credited to Deposit Account No.  
02-2275.

Respectfully submitted,

Date: June 30, 2009

LUCAS & MERCANTI, L.L.P.

By:           /Silvia Salvadori/            
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Attached: GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL, Section VI of  
Appeal Brief

## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 9-11 are unpatentable under 35 U.S.C. § 103(a) for obviousness over Mistrello et al. ("Immunological Profile of DL111-IT, a New Immunosuppressant Agent", *Immunopharmacology*, Elsevier Science Publisher BV, XX, vol. 10, 1985, pp 163-169) and Hashimoto et al. (GB 2246350A) or alternatively over Mistrello et al. and Lenardo (WO 94/28926).